

**CALENDAR ITEM  
C111**

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06/23/11  
WP 4380.1  
B. Terry

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANTS:**

Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust U/D/T dated October 1, 1993

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 4440 North Lake Boulevard, near Carnelian Bay, Placer County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing pier with boat lift, two-story boat house with two boat slips on the lower level, sleeping quarters on the upper level, one swim float, and two mooring buoys previously authorized by the Commission and two existing boat hoists not previously authorized by the Commission, as shown on the attached Exhibit A.

**LEASE TERM:**

10 years, beginning September 13, 2010.

**CONSIDERATION:**

**Sleeping quarters (upper level of boat house) and one swim float:** \$1,395 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**Pier, boat lift, lower level of the boat house with two boat slips and two boat hoists, and two mooring buoys:** No monetary consideration pursuant to Public Resources Code section 6503.5.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance in the amount of no less than \$1,000,000.

Other:

1. The proposed lease contains a provision requiring the Applicants to obtain authorization from the Tahoe Regional Planning Agency

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(TRPA) for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

2. The lease contains provisions that the sleeping quarters above the boat house, as shown on the attached Exhibit A, may not be expanded or improved, and if repairs to any portion of the existing sleeping quarters cost more than 50% of the base value of the sleeping quarters, then the sleeping quarters must be removed from the lease premises.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the uplands adjoining the lease premises.
2. On April 7, 2003, the Commission authorized a General Lease-Recreational Use with Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust U/D/T dated October 31, 1993. That lease expired September 12, 2010. Applicants are now applying for a new General Lease – Recreational Use.
3. The existing pier with boat lift, two-story boat house with two boat slips and two boat hoists, and two mooring buoys are exempt from paying rent pursuant to Public Resources Code 6503.5 because the Applicants are natural persons who own the littoral land that is improved with a single-family dwelling. However, the sleeping quarters on the upper level and the swim float do not qualify for rent-free status under section 6503.5 because they are not used for the docking and mooring of boats. The Commission has been collecting rent for this structure since 1969.
4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under

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Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBIT:**

- A. Site and Location map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust U/D/T dated October 1, 1993, beginning September 13, 2010, for a term of 10 years, for an existing pier with boat lift, two-story boat house with two boat slips on the lower level, sleeping quarters on the upper level, one swim float, and two mooring buoys previously authorized by the Commission and two existing boat hoists not previously authorized by the Commission as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$1,395 for the sleeping quarters (upper level of boat house) and swim float; no monetary consideration for the pier, boat lift, lower level of the boat house with two boat slips and two

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boat hoists, and two mooring buoys pursuant to Public Resources Code section 6503.5, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in the amount of no less than \$1,000,000.